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U.S. Department of Homeland Security  
Bureau of Citizenship and Immigration Services

**PUBLIC COPY**

ADMINISTRATIVE APPEALS OFFICE

425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536

File: [REDACTED] Office: ROME, ITALY

Date:

IN RE: Applicant: [REDACTED]

APR 16 2003

Application: Application for Travel Document Pursuant to Section 223 of the Immigration and Nationality Act, 8 U.S.C. § 1203.

ON BEHALF OF APPLICANT: SELF-REPRESENTED

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**


INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Rome, Italy, and a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reconsider. The motion will be granted and the order dismissing the appeal will be affirmed. The application will be denied.

The applicant, a native of Bosnia and Herzegovina, seeks to obtain a refugee travel document under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1203. The director denied the application after determining that the applicant departed the United States without obtaining a travel document or advance parole prior to departure, has been outside of the United States for one year or more since departure, and has failed to establish that he did not intend to abandon his refugee status at the time of departure. The AAO affirmed that decision on appeal.

On appeal, the applicant explained that he and his family initially arrived in the United States in June 1999 with the intention of residing permanently. However, in April 2000, he was advised by a relative in Bosnia and Herzegovina that he (the applicant) had been pronounced dead and that his privately-owned property would be transferred. The applicant therefore obtained permission from the Consulate of Bosnia and Herzegovina to travel to that country in order to resolve the problem. Once there, the family experienced psychological and physical maltreatment and now wish to return to the United States for the sake of the children's happiness.

On appeal, the applicant submitted documentation including a letter of support from friends dated April 29, 2001; a letter from a possible prospective employer in the United States dated April 19, 2001; and a letter from the regional director of Refugee and Immigration Services, Catholic Diocese of Richmond, Virginia dated April 26, 2000. The documentation supplied indicated that while in the United States, the applicant and his spouse were both employed and their two children were excellent students. If the applicant and his family were to return to the United States, his friends would provide them with lodging and meals and an employer would consider re-hiring the applicant.

On motion, the applicant submits additional documentation including a statement from a man who lived in the applicant's house in Trebinje after the applicant had relocated to the United States. The man states that he was offered the applicant's private property by government authorities who told him that the property owner had died and that the property was proclaimed abandoned. The man further indicates that had the applicant not come to personally deny the claims of his death, he would have lost his property.

On motion, the applicant also submits a medical certificate indicating that his sixteen-year-old daughter is introverted, depressed, apathetic, and unmotivated and that she took an overdose

of medication on May 12, 2002 that endangered her life. The applicant indicates in an undated letter submitted in support of the motion that his daughter had tried to commit suicide because of sexual abuse by schoolmates.

The regulation at 8 C.F.R. § 223.2(b)(2) allows for the approval of a refugee travel document if the application (Form I-131) is filed by a person who is in the United States at the time of application, and either holds valid refugee status under section 207 of the Act, valid asylum status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his or her asylum or refugee status.

The record reflects that the applicant was granted refugee status in the United States on June 24, 1999. On May 2, 2000, the applicant departed the United States for Bosnia and Herzegovina, where he has remained to this date. The applicant applied for a refugee travel document on June 7, 2001 at the United States consulate in Sarajevo, Bosnia. The Immigration and Naturalization Service, now the Bureau, office in Rome, Italy, which has jurisdiction in this matter, denied the application on August 3, 2001. The AAO affirmed that decision on June 13, 2002.

The regulation at 8 C.F.R. § 223.2(b)(2)(ii) states, in pertinent part, that:

As a matter of discretion, . . . an overseas district director having jurisdiction over the place where an alien is physically present . . . may accept and adjudicate an application for a refugee travel document from an alien who previously had been admitted to the United States as a refugee, . . . and who had departed from the United States without having applied for such refugee travel document, provided:

\* \* \*

(B) The district director is satisfied that the alien did not intend to abandon his or her refugee status at the time of departure from the United States;

(C) The alien did not engage in any activities while outside of the United States that would be inconsistent with continued refugee or asylee status; and

(d) The alien has been outside of the United States for less than 1 year since his or her last departure.

While the applicant asserts that he did not intend to abandon his refugee status and has not engaged in any activities outside of the United States that would be inconsistent with continued refugee status, the applicant has been outside of the United States more

than one year and did not apply for a refugee travel document prior to departure. Consequently, the application cannot be approved.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not met that burden. Therefore, the prior order dismissing the appeal will be affirmed. The application will be denied.

**ORDER:** The order of the AAO dated June 13, 2002 dismissing the appeal is affirmed. The application is denied.

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U.S. DEPT. OF JUSTICE